

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v

No. 19-CR-20025-1

ASWANTH NUNE,

Defendant.

PLEA HEARING

BEFORE THE HONORABLE GERSHWIN A. DRAIN
UNITED STATES DISTRICT JUDGE
Theodore Levin United States Courthouse
231 West Lafayette Boulevard
Detroit, Michigan
Wednesday, May 8, 2019

APPEARANCES:

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None

1 Detroit, Michigan

2 Wednesday, May 8, 2019 - 10:13 a.m.

3 THE CASE MANAGER: All rise. The United States
4 District Court for the Eastern District of Michigan is now in
5 session. The Honorable Gershwin A. Drain presiding.

6 You may be seated.

7 The court calls the criminal matter United States
8 of America versus Aswanth Nune. Case Number 19-cr-20025-1.

9 Counsel, please state your appearances for the
10 record.

11 MR. WATERSTREET: Good morning, your Honor.
12 Ronald Waterstreet appearing on behalf of the United States,
13 along with Timothy McDonald, AUSA, and seated at the table is
14 Special Agent Steven Weber.

15 THE COURT: All right. Good morning.

16 MR. RATAJ: Good morning, your Honor. Mike Rataj
17 on behalf Mr. Nune, who stands to my left, as well as the
18 interpreter for this matter.

19 THE COURT: All right. Good morning to you also,
20 Mr. Rataj.

21 MR. RATAJ: Good morning, judge.

22 THE COURT: All right. Since we have an
23 interpreter, I'm going to have my case manager administer the
24 interpreter's oath.

25 THE CASE MANAGER: Do you solemnly swear that you

1 will translate the oath in such questions shall be put to this
2 defendant from the English language to the Hindi language and
3 his answers from the Hindi language to the English language to
4 the best of your ability?

5 THE INTERPRETER: Yes, I do.

6 THE CASE MANAGER: Thank you.

7 Please state your name for the record?

8 THE INTERPRETER: Syed Zaman, interpreter for Mr.
9 Nune.

10 THE COURT: Okay. All right. As I understand it,
11 the defendant wants to tender a plea of guilty to the charge;
12 is that correct?

13 MR. RATAJ: That is correct, your Honor.

14 THE COURT: All right. Mr. Rataj, why don't you
15 and your client approach the podium.

16 MR. RATAJ: Yes, sir. Come on.

17 THE COURT: So, as I -- is there no Rule 11 in
18 this case?

19 MR. RATAJ: We will do an open plea in this case,
20 your Honor.

21 THE COURT: Okay. All right.

22 MR. WATERSTREET: Your Honor, for the record, one
23 was offered to him and it was below the anticipated guideline
24 range, but after discussion apparently they decided not to
25 accept that plea offer.

1 THE COURT: Okay.

2 MR. RATAJ: Well, your Honor, if I may?

3 THE COURT: Okay.

4 MR. RATAJ: We don't want to be bound by any of
5 the, some of the provisions that were set forth in the Rule 11.
6 There's, you know, obviously there's some risk involved that I
7 explained to my client, but I was prepared to proceed as, with
8 an open plea on this matter.

9 THE COURT: Okay. All right. And is it "Nune"?

10 MR. RATAJ: "Nune".

11 THE COURT: "Nune".

12 THE DEFENDANT: "Nune", yes.

13 THE COURT: All right. Mr. Nune, let's see, I'm
14 going to have my case manager administer an oath to you.

15 THE CASE MANAGER: Please raise your right hand.
16 Do you solemnly swear or affirm that the testimony you are
17 about to give to the Court in this matter here pending shall be
18 the truth, the whole truth, and nothing but the truth?

19 THE DEFENDANT: (Nodding head).

20 THE CASE MANAGER: Please state your full name for
21 the record.

22 THE DEFENDANT: Aswanth Nune.

23 MR. WATERSTREET: Your Honor, for the benefit of
24 the record, all the discussions were in English, all the
25 recordings are in English, and I think the interpreter is here

1 mainly for the benefit of if there is any issues in his
2 understanding maybe a particular word or phrase. I'm sure a
3 word by word interpretation is not needed based on my
4 understanding.

5 Counsel, may have a different opinion.

6 MR. RATAJ: Your Honor, Mr. Waterstreet is
7 correct. My, my client does have a decent grasp of the English
8 language; however, out of an abundance of caution to make sure
9 that there's absolutely no issues with whether he understood
10 what your Honor asks him or what Mr. Waterstreet asks him in
11 connection with this plea, I felt it was in everybody's better
12 interest that we have an interpreter so there's no issues about
13 whether he understood what was going on.

14 THE COURT: Okay.

15 Well, just out of curiosity, do you want to have
16 every word interpreted or do you want the interpretation on an
17 as needed basis?

18 MR. RATAJ: I believe in, and I'm going, in my
19 opinion I believe that it should be done on an as needed basis.
20 I agree with Mr. Waterstreet on that. Okay.

21 THE COURT: Okay.

22 MR. RATAJ: If he doesn't understand something, he
23 can turn to the interpreter and ask the interpreter to state
24 it.

25 But I don't think, in my opinion, because I've

1 been able to communicate with him numerous visits to Midland,
2 there have been a couple times where maybe he didn't understand
3 exactly what I was saying, I'd have to repeat it, but in
4 general proposition I agree with the government that he does
5 have a decent grasp of the English language, but again as an
6 abundance of caution I wanted to make sure we had an
7 interpreter here in case there was some issue.

8 So, we don't need to do it on a word by word
9 basis, so --

10 Do you understand, okay, if you don't understand
11 something, then you can turn to the interpreter and he can
12 interpret, but he doesn't have to say every word.

13 THE DEFENDANT: Okay.

14 MR. RATAJ: I agree, judge.

15 THE COURT: Okay.

16 All right. Let's proceed in that fashion and Mr.
17 Nune if I say something or use a word that you don't
18 understand, we can stop and you can ask the interpreter to
19 explain it to you, or to interpret what I've said?

20 THE DEFENDANT: Yes.

21 THE COURT: Are you with me?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. So, do you understand, Mr.
24 Nune, that you are now under oath and if you answer any of my
25 questions falsely, your answers may later be used against you

1 in another prosecution for perjury or false statement; do you
2 understand that?

3 THE DEFENDANT: Yes, I understand.

4 THE COURT: Okay.

5 And, Mr. Nune, what's your full name?

6 THE DEFENDANT: Aswanth Nune.

7 THE COURT: Okay. And how old are you?

8 THE DEFENDANT: Twenty-seven.

9 THE COURT: And how far did you go in school?

10 THE DEFENDANT: 2017.

11 THE COURT: Okay.

12 THE DEFENDANT: February 2017.

13 THE COURT: What grade level did you achieve?

14 Did you graduate from high school or have you had
15 college?

16 THE DEFENDANT: I have done with my Master's,
17 sir. I have done with my Master's in California.

18 THE COURT: Okay. You have a Master's in
19 California?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And what was your Master's Degree in?

22 THE DEFENDANT: Computer science.

23 THE COURT: Okay. So, have you gone beyond a
24 Master's Degree?

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay.

2 So, again, if at any point you don't understand
3 anything I'm saying, again, stop me, let me know, and we'll use
4 the interpreter at that point.

5 THE DEFENDANT: Sure, sir.

6 THE COURT: Okay. So have you been treated
7 recently for any type of mental illness or addiction to alcohol
8 or narcotics?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. And so, again, I'm going to ask
11 you a lot of questions. I'm required to do this. And if you
12 have any questions of Mr. Rataj, you can ask him, too.

13 So, are you currently under the influence of any
14 kind of drugs, medication, or alcoholic beverage?

15 THE DEFENDANT: No, sir.

16 THE COURT: Okay. And have you received a copy of
17 the indictment that's been filed against you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you had a chance to talk to Mr.
20 Rataj about it?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And has he been able to answer
23 questions you've had about it?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And are you satisfied with the advice

1 and the counsel he's given you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And so, has anyone forced you to plead
4 guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Has anyone threatened you or told you
7 that you must plead guilty?

8 THE DEFENDANT: No, sir.

9 THE COURT: And are you doing it freely and
10 voluntarily?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And are you pleading guilty because
13 you are guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And so, do you understand that the
16 normal maximum sentence the Court could impose on this case is
17 a sentence of up to five years in prison and the minimum
18 sentence would be a term of probation, you understand that?

19 THE DEFENDANT: I understand, sir.

20 THE COURT: Do you also understand that there's a
21 potential fine in the case?

22 I could not impose a fine or I could impose a fine
23 of up to \$250,000; do you understand that?

24 THE DEFENDANT: I understand, sir.

25 THE COURT: And also there's a potential period of

1 supervised release that could be up to three years, or there
2 could be no supervised release; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. And are you presently on
5 any type of probation or parole, or do you have any other
6 pending cases right now?

7 THE DEFENDANT: No, sir.

8 THE COURT: And you are a citizen of what country?

9 THE DEFENDANT: India, sir.

10 THE COURT: Where?

11 THE DEFENDANT: India.

12 THE COURT: India?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. And so do you understand that
15 there are some collateral consequences that can flow from you
16 pleading guilty here; do you understand that?

17 THE DEFENDANT: I understand, sir.

18 THE COURT: And do you understand that there's a
19 good likelihood that you'll be deported after this case, you
20 understand that?

21 THE DEFENDANT: I understand, sir.

22 THE COURT: And do you also understand that
23 there's some additional -- well, let me say this.

24 You will probably be deported, you understand
25 that?

1 THE DEFENDANT: I understand, sir.

2 THE COURT: Do you also understand that your
3 efforts to come back into this country in the future will be
4 hindered as a result of this case, you understand that?

5 THE DEFENDANT: Understand.

6 THE COURT: It's going to be harder than anybody
7 else to try to get back into this country for any reason, you
8 understand that?

9 THE DEFENDANT: Understand.

10 THE COURT: And there are also some other
11 additional consequences that flow from having a felony
12 conviction.

13 Do you have any prior felony convictions at all?

14 THE DEFENDANT: No, sir.

15 THE COURT: For example, when you have a felony
16 conviction in this country, in this state, you cannot possess a
17 firearm, you understand that?

18 THE DEFENDANT: Understand, sir.

19 THE COURT: With a felony conviction you can't
20 hold certain licenses or get certain jobs.

21 You can't hold certain offices.

22 You can't serve on juries in certain states.

23 So there's additional things that happen to you as
24 a result of having a felony conviction, you understand that?

25 THE DEFENDANT: Understand, sir.

1 THE COURT: Okay. And there's also a \$100 special
2 assessment that I have to impose on your case. So I'm going to
3 assess you \$100 as a result of this case; do you understand
4 that?

5 THE DEFENDANT: Understand, sir.

6 THE COURT: And so, again, what's going to happen
7 after today is that I'll be sentencing you and I don't know
8 what, what the sentence will be, but what's going to happen is
9 I will receive a presentence report that details your
10 background and your history. I'll learn all of that. I'll
11 learn about this case and your involvement in this case. I'll
12 also find out what the sentencing guidelines are, and I don't
13 know what they are right now.

14 And I'm going to ask both counsel what you two
15 believe the guidelines are just for my information.

16 MR. WATERSTREET: Your Honor, I've done a
17 preliminary calculation. It's 15 to 21 months.

18 THE COURT: Okay.

19 Do you have a different interpretation of the
20 guidelines than that, Mr. Rataj?

21 MR. RATAJ: I do not, your Honor.

22 THE COURT: Okay. Okay.

23 So, Mr. Nune, the guidelines that control your
24 case suggest to me that you should receive a sentence somewhere
25 in the range of 15 to 21 months in custody; do you understand

1 that?

2 THE DEFENDANT: Understand, sir.

3 THE COURT: Okay. And I don't know what I'm going
4 to do. I could sentence you in that range; I can go below
5 that, or I can go above it, you understand that?

6 THE DEFENDANT: I understand, sir.

7 THE COURT: So, again, there's a lot of things
8 that I look at for sentencing purposes, including there is a
9 statute that tells me of some specific things I have to look at
10 and talk about when I sentence you, you understand that?

11 THE DEFENDANT: Understand, sir.

12 THE COURT: Okay. All right. And so, let me also
13 talk to you about the rights that you give up when you enter a
14 plea of guilty.

15 You have previously entered a not guilty plea on
16 this case, or one has been entered on your behalf.

17 So, do you understand that you don't have to plead
18 guilty if you don't want to and you can have a trial on the
19 case; do you understand that?

20 THE DEFENDANT: I understand, sir.

21 THE COURT: Okay. And at the trial you would have
22 the right to be presumed innocent and the government would have
23 to prove you guilty beyond a reasonable doubt, you understand
24 that?

25 THE DEFENDANT: Understand, sir.

1 THE COURT: And then also at a trial if the
2 government and I agree, you could have a trial by judge instead
3 of a trial by jury; do you understand that?

4 THE DEFENDANT: Understand, sir.

5 THE COURT: Okay. And also at a trial Mr. Rataj
6 could represent you throughout the trial. He could do all the
7 things that lawyers normally do during a trial: Ask a lot of
8 questions, cross-examine witnesses, help you pick a jury, you
9 know, help me prepare jury instructions.

10 There's a lot of things that lawyers do and he
11 would be available to do all of those things, you understand
12 that?

13 THE DEFENDANT: I understand, sir.

14 THE COURT: And so, do you also understand that at
15 a trial the government would have to bring in witnesses to
16 testify against you, and, again, he could question those
17 witnesses, you understand that?

18 THE DEFENDANT: Understand, sir.

19 THE COURT: And then at a trial if you wanted to
20 remain silent, you could do that, or if you wanted to testify,
21 you could do that also; do you understand that?

22 THE DEFENDANT: Understand, sir.

23 THE COURT: And if you elected not to testify,
24 that couldn't be used against you in any way; do you understand
25 that?

1 THE DEFENDANT: I understand, sir.

2 THE COURT: Okay. And then at a trial if you
3 wanted to call witnesses and present a defense or have
4 witnesses testify for you, I would help you bring in witnesses
5 with subpoenas; do you understand that?

6 THE DEFENDANT: Understand, sir.

7 THE COURT: Okay.

8 So, is it clear to you, Mr. Nune, that by entering
9 this plea of guilty you will stand convicted of this charge and
10 there will be no trial on your case, you understand that?

11 THE DEFENDANT: Understand, sir.

12 THE COURT: Okay.

13 In this case you are charged with conspiracy to
14 commit visa fraud and to harbor aliens for profit. And it says
15 in the indictment that from on or about June of 2017 through
16 January of 2019 that you were involved in having foreign
17 citizens come here and you assisted them in illegally remaining
18 in the country and reentering and working in the United States,
19 and that you recruited people to enroll into the school for
20 financial gain.

21 And so tell me what you did with regard to this
22 case? What your involvement in it was?

23 MR. WATERSTREET: Your Honor, if I may, can I go
24 through question and answer period?

25 THE COURT: Yes. Yes, you may.

1 MR. WATERSTREET: Thank you.

2 THE COURT: To establish the factual basis here.

3 MR. WATERSTREET: To try to establish the factual
4 basis, yes.

5 THE COURT: All right.

6 MR. WATERSTREET: Mr. Nune, you previously told
7 the Court you're a citizen of India. You are not a citizen of
8 the United States, are you?

9 THE DEFENDANT: No. Citizen of India.

10 MR. WATERSTREET: Just India.

11 And you entered the United States approximately
12 2015 when you went to go to Northwestern Polytechnic
13 University?

14 THE DEFENDANT: Yes, sir.

15 MR. WATERSTREET: In California?

16 THE DEFENDANT: Yes, sir.

17 MR. WATERSTREET: And you knew as a foreign
18 student your status would only remain valid if you were
19 enrolled as a full-time student making progress toward
20 completion of your field of study, correct?

21 THE DEFENDANT: Yes, sir.

22 MR. WATERSTREET: So you had to maintain being a
23 full-time student, you couldn't just stop and go work someplace
24 else, right?

25 THE DEFENDANT: Yes, sir.

1 MR. WATERSTREET: Okay. And you're familiar with
2 something called the Form I-20, right?

3 THE DEFENDANT: Yes, sir.

4 MR. WATERSTREET: And you learned about that as
5 part of your process of coming here to the United States?

6 THE DEFENDANT: Yes, sir.

7 MR. WATERSTREET: And remaining here in the United
8 States?

9 THE DEFENDANT: Yes.

10 MR. WATERSTREET: And that allows you to apply for
11 an F-1 visa to come here to the United States?

12 THE DEFENDANT: Yes, sir.

13 MR. WATERSTREET: And it's proof of your legal and
14 academic status here in the United States; is that right, that
15 I-20?

16 THE DEFENDANT: Yes, sir.

17 MR. WATERSTREET: And it can be used as an entry
18 document when you travel abroad and you come back to the United
19 States?

20 THE DEFENDANT: Yes, sir.

21 MR. WATERSTREET: And it allows a student to
22 participate in practical training like OPT or CPT, correct?

23 THE DEFENDANT: Yes, sir.

24 MR. WATERSTREET: And it's a document that you use
25 when you transfer from one school to another school from, let's

1 say, Northwestern Polytechnic to University of Farmington; is
2 that right?

3 THE DEFENDANT: Yes, sir.

4 MR. WATERSTREET: Now, in approximately January of
5 2018 you transferred from Northwestern Polytechnic University
6 to University of Farmington, correct?

7 THE DEFENDANT: Yes.

8 MR. WATERSTREET: And you filed an application and
9 you received an I-20 from that, right?

10 THE DEFENDANT: Yes.

11 MR. WATERSTREET: And prior to transferring in
12 2018 you had already started helping other students transfer
13 from their schools to the University of Farmington, correct?

14 THE DEFENDANT: Yes, sir.

15 MR. WATERSTREET: As far back as June of 2017?

16 THE DEFENDANT: Right.

17 MR. WATERSTREET: And you knew from the very
18 beginning that the University of Farmington did not offer any
19 classes?

20 THE DEFENDANT: Yes, sir.

21 MR. WATERSTREET: As a matter of fact, you said
22 the only reason you wanted to go there was to maintain your
23 status, correct, and you knew you were not going to be
24 attending any classes, correct?

25 THE DEFENDANT: Yes, sir.

1 MR. WATERSTREET: And you knew that was not
2 approved by the Department of Homeland Security and that it was
3 illegal to try to just maintain your status and not attend
4 classes, correct?

5 THE DEFENDANT: Yes, sir.

6 MR. WATERSTREET: And you mentioned that in, you
7 understand, that call back in June 7, 2017, correct?

8 THE DEFENDANT: Yes, sir.

9 MR. WATERSTREET: And at a meeting you had at the
10 University on June 12, 2017, correct?

11 THE DEFENDANT: Yes.

12 MR. WATERSTREET: And as a matter of fact, during
13 one of those meetings you told the undercover officer that you
14 were looking just to maintain your status and you didn't want
15 to go to classes, right?

16 THE DEFENDANT: Yes.

17 MR. WATERSTREET: Now, during this conspiracy you
18 and some of your coconspirators recruited some of the students
19 in exchange for payment, correct?

20 THE DEFENDANT: Yes, sir.

21 MR. WATERSTREET: One of your associates was Fayze
22 Shaik.

23 THE DEFENDANT: Yes, sir.

24 MR. WATERSTREET: And you and he travelled to the
25 University of Farmington in June of 2017 to talk about the

1 whole process of getting people into the school, correct?

2 THE DEFENDANT: Yes, sir.

3 MR. WATERSTREET: And during some of your
4 conversations that occurred during that time, and subsequent,
5 you started talking about getting paid to bring students to the
6 school, correct?

7 THE DEFENDANT: Yes.

8 MR. WATERSTREET: Originally, you were going to be
9 paid \$500 per student for the first four students and then you
10 negotiated --

11 THE COURT: Hold on. You have to give a verbal
12 answer. You're shaking your head, and making a sound, so you
13 have to say, yes or no, whatever the answer is, because my
14 court reporter is taking down everything and she needs to be
15 able to hear your response.

16 THE DEFENDANT: Okay, sir.

17 MR. WATERSTREET: Thank you, your Honor. I
18 appreciate that.

19 THE COURT: Okay. Yes.

20 MR. WATERSTREET: Originally, you negotiated for
21 four students for \$500 each, correct?

22 THE DEFENDANT: Yes, sir.

23 MR. WATERSTREET: And then you negotiated a deal
24 where you'd get \$1,000 per student thereafter, correct?

25 THE DEFENDANT: Yes, sir.

1 MR. WATERSTREET: And you personally recruited
2 approximately 19 or more students, correct?

3 THE DEFENDANT: Yes, sir. Eighteen.

4 MR. WATERSTREET: Eighteen.

5 When you sent us some paperwork in an e-mail to
6 the school when they asked you to please give a list of all the
7 students you recruited, correct?

8 THE DEFENDANT: Yes, sir.

9 MR. WATERSTREET: And in that you would agree that
10 that was the number of students that you recruited?

11 THE DEFENDANT: Yes, sir.

12 MR. WATERSTREET: So, if it's more than 18 as you
13 remember, that would be correct?

14 THE DEFENDANT: I think it's 18, sir.

15 MR. WATERSTREET: If you sent an e-mail that said
16 more than 18?

17 THE DEFENDANT: Maybe.

18 MR. WATERSTREET: Maybe?

19 THE DEFENDANT: Maybe.

20 MR. WATERSTREET: And in the process of doing this
21 you were, you were able to receive approximately \$20,000 from
22 the school and from students that you collected money on their
23 behalf, correct?

24 THE DEFENDANT: Yes, sir.

25 MR. WATERSTREET: And you also helped in the

1 facilitation of the issuance of the Form I-20 for some of your
2 students, correct?

3 THE DEFENDANT: Yes, sir.

4 MR. WATERSTREET: As a matter of fact, in August
5 of 2018 you went to the school and picked up an I-20 for a
6 student and their identification card, correct?

7 THE DEFENDANT: Yes, sir.

8 MR. WATERSTREET: Additionally, you -- on that, on
9 or about June 12th -- excuse me. September 7, 2017 you
10 collected \$2,000 for recruiting students?

11 THE DEFENDANT: Yes, sir.

12 MR. WATERSTREET: And then on January 19th
13 collected another \$4,000?

14 THE DEFENDANT: Yes, sir.

15 MR. WATERSTREET: And then on June 11, 2018,
16 collected another \$1,500?

17 THE DEFENDANT: Yes, sir.

18 MR. WATERSTREET: And then you also said as part
19 of an e-mail that you had collected approximately \$12,500 from
20 students?

21 THE DEFENDANT: Yes, sir.

22 MR. WATERSTREET: And that you were going to keep
23 that as payment for your services as a recruiter?

24 THE DEFENDANT: Yes, sir.

25 MR. WATERSTREET: Now, you're pleading guilty to

1 conspiracy to harbor aliens for profit and commit visa fraud,
2 as the judge pointed out, you understand that, correct?

3 THE DEFENDANT: Yes, sir.

4 MR. WATERSTREET: You agree that you made an
5 agreement with another person to conceal or harbor an alien who
6 remained in the United States in violation of the law, correct?

7 THE DEFENDANT: Yes.

8 MR. WATERSTREET: You were helping students claim
9 to be that they were going to school when they really were not
10 and they were getting false I-20's, correct?

11 THE DEFENDANT: Yes, sir.

12 MR. WATERSTREET: And you knew the alien remained
13 in the United States in violation of the law?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you committed this offense for
16 private gain so you could make money?

17 THE DEFENDANT: Yes, sir.

18 MR. WATERSTREET: You also agreed with another
19 person to knowingly possess, obtain, accept, or receive an I-20
20 or knowingly caused another person to obtain an I-20, which is
21 a document described by statute and regulation as evidence of
22 authorization to stay?

23 THE DEFENDANT: Yes, sir.

24 MR. WATERSTREET: As we said before, you got an
25 I-20 for another student and yourself and some, many other

1 students you recruited, correct?

2 THE DEFENDANT: Yes, sir.

3 MR. WATERSTREET: And you admitted those I-20's
4 are used to come back into the United States and remain in the
5 United States, correct?

6 THE DEFENDANT: Yes, sir.

7 MR. WATERSTREET: And that you knew that you
8 obtained this I-20 by fraud because you were claiming that
9 students were going to the school and you knew they were not
10 going to the school?

11 THE DEFENDANT: Yes.

12 MR. WATERSTREET: And that you knowingly,
13 voluntarily joined this agreement, you weren't forced to do
14 this, correct?

15 THE DEFENDANT: Yes, sir.

16 MR. WATERSTREET: You -- I'm sorry. That was a
17 double negative there.

18 Were you forced to do this?

19 THE DEFENDANT: No, sir.

20 MR. WATERSTREET: And as you, one of the members,
21 you or one of the members of this conspiracy did one of the
22 overt acts described in the indictment to help the conspiracy,
23 correct?

24 THE DEFENDANT: Yes, sir.

25 MR. WATERSTREET: I think that will cover the

1 factual basis, your Honor. The Court already went through the
2 time period of June of 2017 through January of 2019 and I would
3 ask for the Court to take judicial notice that the University
4 of Farmington is located here in the Eastern District of
5 Michigan and he traveled here several times for meetings here
6 in the Eastern District of Michigan.

7 THE COURT: Okay. Is that -- are you prepared to
8 stipulate to that, Mr. Rataj?

9 MR. RATAJ: We are prepared to stipulate to that,
10 your Honor.

11 THE COURT: Okay.

12 All right. Mr. Rataj, do you have anything to add
13 with regard to the factual basis at all?

14 MR. RATAJ: Not to the factual basis, your Honor,
15 but if may ask my client one question?

16 THE COURT: Sure.

17 MR. RATAJ: Mr. Nune, you heard the Assistant
18 United States Attorney ask you a bunch of questions, correct?

19 THE DEFENDANT: Yes, sir.

20 MR. RATAJ: Is there any question that he asked
21 you that you would need the interpreter to help you understand
22 the question or did you understand all the questions that Mr.
23 Waterstreet asked you?

24 THE DEFENDANT: Yes, sir.

25 MR. RATAJ: You understood all the questions?

1 THE DEFENDANT: I understand all the questions.

2 MR. RATAJ: Okay.

3 THE COURT: And so, just out of curiosity, where
4 did you get the I-20 forms from?

5 THE DEFENDANT: From the school, sir.

6 THE COURT: From the school?

7 THE DEFENDANT: Yeah.

8 THE COURT: Okay.

9 MR. RATAJ: That would have been from the
10 undercover FBI agents, your Honor.

11 THE COURT: Okay. Okay.

12 MR. WATERSTREET: They're actually customs agents.

13 MR. RATAJ: Custom agents.

14 THE COURT: Okay. Customs agents.

15 All right. So, Mr. Nune, your plea is guilty; is
16 that correct, to the charge?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. All right.

19 Then, in this case the Court is going to find that
20 the defendant is competent and capable of entering an informed
21 plea, that he's aware of the nature of the charges and the
22 consequences of the plea, and that the plea of guilty is a
23 knowing and voluntary plea supported by an independent factual
24 basis as to each of the essential elements of the offense and
25 I'm therefore going to accept the defendant's plea and find

1 that he is guilty of the charge.

2 I'm going to refer the matter to the probation
3 department for a presentence investigation and report, and I'm
4 scheduling the sentencing for?

5 THE CASE MANAGER: August 29th, 2019 at 2:30 p.m.

6 MR. RATAJ: What day is that?

7 THE CASE MANAGER: It's a Thursday.

8 MR. RATAJ: Thursday. Okay.

9 MR. WATERSTREET: Your Honor, may I touch on two
10 other subjects before we leave?

11 THE COURT: Sure. Well, do you have a problem
12 with that date?

13 MR. WATERSTREET: No. No, I do not. That's fine.

14 THE COURT: All right. Then, that will be the
15 sentencing date.

16 All right. Then, you have something else, Mr.
17 Waterstreet?

18 MR. WATERSTREET: Yes, I do. Thank you, your
19 Honor.

20 THE COURT: All right.

21 MR. WATERSTREET: There's also a forfeiture
22 provision as part of the indictment and we have not touched on
23 that.

24 THE COURT: Okay.

25 MR. WATERSTREET: If I may address that?

1 THE COURT: Yes.

2 MR. WATERSTREET: There is no agreement between
3 the parties as to forfeiture. However, as noted in the
4 indictment we do intend to seek forfeiture of funds.

5 Mr. Nune's -- currency received from Mr. Nune's
6 bank account in the amount of \$2,789.35. As Mr. Nune has
7 already pointed out, he received a total of \$7,500 directly
8 from the undercover agents as, for his role in recruiting
9 students as well as the additional \$12,500 from the students.

10 So we will be seeking the forfeiture at the very
11 least of the funds that were seized from his bank account and
12 we will seek forfeiture of the balance, remaining balance.

13 THE COURT: Okay. All right. You have any
14 comment, Mr. Rataj?

15 MR. RATAJ: Your Honor, just for the record, I
16 received a bill of particulars regarding forfeiture yesterday,
17 I think it was, and as I indicated to Mr. Waterstreet this
18 morning, we will not be contesting the forfeiture.

19 So, if the appropriate order is forwarded to me,
20 we'll sign them and do away with that issue.

21 THE COURT: Okay. All right. And I've received a
22 copy of the first forfeiture bill of particulars here, too, and
23 I've had a chance to look at it and it seems to be correct.

24 So, we can finalize that at the sentencing date.

25 MR. WATERSTREET: The last thing is, the defendant

1 understood that there was, I mentioned at the very beginning, I
2 want to make sure he understands here at the very end. There
3 was a plea offer made to the defendant. The offer was that he
4 would not receive, we agreed to a basically variance from the
5 guidelines and that he would have to be sentenced at least 12
6 months. We would have no objection to a sentence of a year and
7 a day.

8 There were two benefits the government was getting
9 as a result of that. He was going to enter into a judicial
10 order of removal to insure the government didn't have to spend
11 any more of its resources seeking his deportation in the
12 future. I imagine Mr. Rataj will want to speak to that, and
13 that was one of the benefits that would be gained and that was
14 why we were willing to go down that road. And I just wanted
15 the Court to understand that was an offer that was made to him.

16 I know Mr. Rataj conveyed it to him. As long as
17 he understands that was available to him and he's waiving that,
18 that was the last issue I wanted to bring to the Court's
19 attention.

20 THE COURT: Okay.

21 MR. RATAJ: If I may comment on that, judge?

22 THE COURT: Yes.

23 MR. RATAJ: At the time of sentencing we will
24 place on the record that he is not going to contest
25 deportation.

1 And all of the language that went in the Rule 11
2 regarding deportation I will reiterate in a sentencing
3 memorandum. He is not going to be contesting deportation.

4 What I'm hoping for at the time of sentence is,
5 quite frankly, your Honor, that he gets credit for time served
6 and deportation process is start immediately. That's the
7 reason for the open plea.

8 THE COURT: There's a possibility of that. I
9 don't know what I'm going to do. That's a possibility.

10 MR. RATAJ: I've made it very clear to the client,
11 Mr. Nune, that there are no guarantees, but I wanted to keep
12 that option open. And so, that was the, that is the primary
13 reason for the open plea, so the Court is fully aware.

14 But I will not, or we will not be contesting
15 deportation at the time of sentencing.

16 THE COURT: Okay.

17 MR. RATAJ: And whatever orders, documents that
18 need to be signed, Mr. Nune is prepared to sign those documents
19 to start the deportation process as quickly as possible.

20 THE COURT: Okay.

21 MR. RATAJ: Now, I have one other request of the
22 Court, your Honor, if I may, and that is with respect to the
23 probation interview. Given the fact that Mr. Nune is being
24 housed in Midland and given the fact this is an extensive
25 practice, I'm respectfully requesting an additional 21 days to

1 conduct the presentence interview with probation.

2 THE COURT: Okay. And I don't have a problem with
3 that.

4 MR. RATAJ: All right.

5 THE COURT: I think it might typically occur today
6 because we're in the morning.

7 MR. RATAJ: Unfortunately, I cannot do it this
8 afternoon.

9 THE COURT: That's not a problem. That's not a
10 problem.

11 So, I wonder if I need to make an adjustment and
12 move the date out further another three weeks or you just want
13 to see how it plays out?

14 MR. RATAJ: No, I think that we should just go
15 ahead. I'll schedule this interview as quickly as I can.

16 THE COURT: Okay.

17 MR. RATAJ: I want to have a buffer, if you will.

18 THE COURT: Okay.

19 MR. RATAJ: Because I can't get it done in seven
20 days like we're supposed to do.

21 THE COURT: Okay.

22 MR. RATAJ: But I'll do it as expeditiously as
23 possible. I don't really think that it's going to affect the
24 sentencing date, quite frankly, since it's so far out.

25 THE COURT: Okay.

1 MR. RATAJ: All right.

2 THE COURT: And when you -- I assume you're doing
3 that so you can be present for the presentence report.

4 MR. RATAJ: We have to be present, your Honor.

5 THE COURT: Okay.

6 MR. RATAJ: We have to be present.

7 THE COURT: And so, I'll let you schedule a date
8 with my case manager and she'll be in touch with the probation
9 department for the interview if you can't work it out with --

10 MR. RATAJ: What I'm going to do, judge --

11 THE COURT: Okay.

12 MR. RATAJ: -- I'm going to go upstairs right now,
13 find out who it is, give them a call, and say, here, here's my
14 schedule, get your schedule out, and let's do this. I just
15 don't want to have a problem because I can't do it in seven
16 days.

17 THE COURT: And if you have any problem with that,
18 give me a call.

19 MR. RATAJ: I'll work this out, judge. Like I
20 said, I just want a buffer, that's all.

21 THE COURT: All right. Gentlemen, anything else
22 we need to do or take up at this point?

23 I think I've accepted the plea, made some
24 findings. We've talked about the forfeiture matter, and I
25 guess there's nothing else unless you all have something else?

1 MR. WATERSTREET: No, your Honor. Thank you very
2 much for your patience, your Honor.

3 MR. RATAJ: We're all set, your Honor. Thank you
4 very much.

5 THE COURT: All right. Good enough.

6 THE CASE MANAGER: All rise.

7 THE COURT: And I guess we'll have the interpreter
8 come back for sentencing just in case there's some issue.

9 MR. RATAJ: Yes.

10 THE COURT: Okay. All right. We'll be in recess.

11 THE CASE MANAGER: Thank you.

12 (At 10:49 a.m. proceedings concluded)

13 C E R T I F I C A T E

14 I, Marilyn J. Jones, Official Court Reporter of the
15 United States District Court, Eastern District of Michigan,
16 appointed pursuant to the provisions of Title 28, United States
17 Code, Section 753, do hereby certify that the foregoing pages
18 1-34, inclusive, comprise a full, true and correct transcript
19 taken in the matter of the United States of America versus
20 Aswanth Nune, 19-cr-20025 on Wednesday, May 8, 2019.

21
22 /s/Marilyn J. Jones
23 Marilyn J. Jones, CSR, RPR
24 Federal Official Reporter
25 231 W. Lafayette Boulevard
Detroit, Michigan 48226

Date: June 2, 2019